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on Wednesday, 24 March 1999, at 10 a.m.

Chairman: Mrs. ANDERSON (Ireland)

CONTENTS

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES
UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (continued)

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

STATEMENT BY THE UNDER-SECRETARY FOR FOREIGN AFFAIRS OF MEXICO

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF GABON

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF IRELAND

STATEMENT BY THE VICE-PRESIDENT OF THE COUNCIL OF STATE AND SECRETARY OF THE
COUNCIL OF MINISTERS OF CUBA

ORGANIZATION OF THE WORK OF THE SESSION (continued)

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The meeting was called to order at 10.05 a.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 5)
(continued) (E/CN.4/1999/10, 11 and 123; E/CN.4/1999/NGO/32, 58 and 59)

1. Mr. BERNALES BALLESTEROS (Special Rapporteur on the question of mercenaries), introducing his report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (E/CN.4/1999/11), said that Africa was the continent most affected by mercenary activity. In Angola, for example, UNITA was ignoring peace agreements and re-arming with mercenary participation. Mercenaries were also present in the Republic of Congo, the Democratic Republic of Congo, Sierra Leone and other African countries.
2. It might have been supposed that the ending of certain armed conflicts, the signing of peace agreements, the formation of regional alliances and the various United Nations missions would have made it possible to end mercenary intervention. That had not been the case.
3. The events in Sierra Leone showed that a Government could not ensure peace and political stability through recourse to mercenaries. The peace achieved with the help of the Executive Outcomes security company was merely an illusion. A few months after the company had left the country, the Government of President Tejan Kabbah, which had hired it, had been overthrown by a Government connected with the Revolutionary United Front (RUF), which had committed all sorts of atrocities.
4. The deposed President had then signed a contract with Sandline International, which had exported to Sierra Leone helicopters and military equipment in breach of the embargo imposed by the Security Council. In March 1998, President Tejan Kabbah had regained power with the help of ECOMOG. The RUF forces had also hired mercenaries and in late 1998 had entered Freetown, where they had committed atrocities.
5. It thus appeared that the use of mercenaries by all sides had merely prolonged the conflict, and that the argument that there were "good" and "bad" mercenaries did not hold water. Hiring mercenaries was no substitute for maintaining a collective regional security system, and genuinely professional national armed forces and security forces loyal to the democratic legal order. The recruitment and financing of mercenaries were unacceptable under any circumstances, even when the aim was the restoration of a constitutional regime overthrown by force.
6. Armed conflicts, terrorism, arms trafficking, the inability of States to establish security in their territories, and violence connected with extremist ideologies and characterized by intolerance all encouraged the demand for mercenaries on the global market, and private military security companies took advantage of loopholes in international legislation on the subject.
7. To claim that mercenaries were more efficient than a regular army was a weak argument, and legally and ethically questionable. If such arguments were used as the grounds for praxis, States would reach a stage where they would

have to abolish or cut drastically their national armies and replace them with mercenaries to take charge of border control and maybe even the maintenance of law and order. That boded ill for the obligation on States to protect human rights, for it was clear that mercenaries committed atrocities and impeded the exercise of human rights.

8. It was unacceptable that private companies, even if their activities were legal when carried out in the civil or commercial sphere, should replace armies and police forces, undermine national sovereignty and the right of peoples to self-determination, and impede the exercise of human rights. In that connection, mention might be made of South Africa, which in 1968 had passed a law regulating military assistance abroad and limited the competence of private companies in that regard. He had carried out a mission to the United Kingdom, in the course of which he had been informed by the Government of measures it intended to take in order to solve that problem in global and legal terms. His next report to the General Assembly would be devoted to an analysis of that mission.

9. Many peoples were currently suffering as a result of mercenary activity. It was therefore imperative that the Commission on Human Rights should continue to consider that issue.

10. Mr. TCHOUMAREV (Russian Federation) considered that the concept of the "right of peoples to self-determination" needed clarifying. Current international law ruled out the absolute exercise of the right of peoples to self-determination where it would be to the detriment of other principles and norms. The fundamental principles contained in the Charter of the United Nations were linked and interdependent. Thus, the principle of the right of peoples to self-determination was inseparable from the principle of the territorial integrity of States. On that matter, he wished to draw the Commission's attention to the Declaration of the Principles of International Law of 1970 and the Vienna Declaration and Programme of Action of 1993, according to which the right of peoples to self-determination must not be read as authorizing or encouraging any measure liable to dismember States or compromise their territorial integrity or political unity. Any other conception of the principle and of the right to self-determination could only lead to separatism, aggressive nationalism and extremism, which, as was well known, constituted a threat to human rights and international stability. It was therefore important to defend the principle of the right of peoples to self-determination as a means of satisfying ethnic interests and ensuring the rights of individuals.

11. The Russian Federation was a multinational State. That State structure permitted the development of all the peoples in accordance with the constitutional principles of equal rights and self-determination, with due respect for the integrity of the State and the inviolability of the territory of the Federation. The legal framework for applying those principles was developing little by little. In particular, thanks to the law on national and cultural autonomy, all peoples, large and small, whether grouped together or scattered throughout the Federation, had the right to enjoy national and cultural autonomy.

12. The situation in the Middle East required careful scrutiny by the Commission. The realization of the Palestinian people's inalienable rights would not be damaging to the State of Israel; on the contrary, it would benefit Israel by improving its security and encouraging the establishment of good relations among the countries in the region. The Russian Federation, one of the sponsors of the peace process, earnestly wished to see Israeli-Palestinian dialogue continue on all the outstanding issues, in particular the building of Israeli settlements in the occupied Palestinian territories, access for followers of all faiths to the holy sites and the status of Jerusalem.

13. The political aspect of the right to self-determination should not overshadow the humanitarian aspect; hundreds of thousands of Palestinians were refugees or displaced. In that regard, the Russian Federation supported all humanitarian initiatives and all the efforts of the international community towards a peaceful settlement of the situation in the Middle East. In particular, it supported the Special Rapporteur's action on human rights in the Palestinian territories under Israeli occupation, and the actions of the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) and of the International Committee of the Red Cross. Finally, it would be following closely the work of the meeting of the States parties to the fourth Geneva Convention on the situation in the occupied Palestinian territories due to take place in July.

14. Mr. WANG Min (China) said that, in accordance with the United Nations Charter, General Assembly resolution 1514 (XV), and the Vienna Declaration and Programme of Action, respect for the right to self-determination required, above all, opposition to any foreign aggression or interference, and safeguarding of national sovereignty, independence and territorial integrity, so that people of all countries could freely choose their own political and social systems and models of development. No country should impose its own ideology or social system on others. China was opposed to the practice of the strong bullying the weak and one country interfering in the internal affairs of others through political pressure or economic sanctions.

15. The right to self-determination must not be interpreted as authorizing or encouraging violations of the territorial integrity and political unity of sovereign and independent States. In recent years, some individuals had, under the pretext of promoting the principle of self-determination, advocated the dismemberment of sovereign States and wilfully trampled on the United Nations Charter and the basic principles of international law. Many developing countries had been the victims of such separatist activities, which the United Nations should firmly oppose.

16. The key to a global, just and lasting peace in the Middle East lay in restoring all the rights of the Palestinian people, including the right to self-determination. To that end, Israel and the Arab countries must negotiate earnestly and pragmatically on the basis of the relevant United Nations resolutions and the existing agreements between the parties and guided by the "land for peace" principle.

17. Ms. DE ARMAS GARCIA (Cuba) said that the right of any State to fully exercise its national sovereignty and the right of all peoples to self-determination without interference or foreign intervention were the pillars of the existing international legal order and of the United Nations.

18. While colonialism had disappeared, powerful States were attempting, on the basis of legally dubious theories, to impose on others foreign models which they presented as universal prototypes.

19. Globalization should not imply poverty, social inequality or the domination of the weaker countries by the stronger, but rather cooperation, peace, solidarity, ethics, and the right of peoples to self-determination with due respect for national sovereignty and independence.

20. As long as foreign domination and occupation continued, human rights would go unheeded. In that connection, Cuba would continue to demand the return of the territory containing the Guantanamo naval base, which was occupied illegally by the United States.

21. On the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, Cuba supported the detailed examinations carried out by the Special Rapporteur on that question, particularly concerning new types of mercenary activities and especially where they involved individuals attacking their country of origin with the help of a foreign Power. States must not tolerate the use of their territories for the recruitment, training, financing and use of mercenaries.

22. For nearly 40 years, Cuba had been the victim of mercenary activities encouraged and financed from the territory of the United States. Her Government therefore reserved the right to protect its citizens, its sovereignty and its independence, with all due transparency, as was recently demonstrated by the trial of two mercenaries found guilty of acts of terrorism in Cuba.

23. Mr. MORJANE (Tunisia) said that the situation in the Arab territories occupied by Israel had become explosive because of the policies of the occupation authorities, which were continuing to seize territory by force and to violate human rights. In Jerusalem, Israel was continuing its Judaization policy, destroying homes, expelling the inhabitants and altering the city's demographic composition, in flagrant violation of the international agreements to which Israel was a party, notably the fourth Geneva Convention of 1949 and the relevant resolutions of the Security Council and the General Assembly.

24. It should be remembered that the international community had always regarded Jerusalem as part of the occupied territories. Recently, the European Community had refused to recognize Jerusalem as the capital of Israel.

25. Israel was defying the resolutions of the General Assembly and was not fulfilling the obligations it had undertaken at the 1991 Madrid Conference, which were intended to lead to a just, global and lasting peace in the Middle East and to the creation of an independent Palestinian State with Jerusalem as its capital.

26. Tunisia, which had always striven for peace in the Middle East and for respect for the Palestinian people's right to self-determination, called on the Commission to continue its efforts to encourage Israel to fulfil its obligations and the relevant resolutions of the Security Council and the General Assembly.

27. Mrs. RUSTAM (Indonesia) was concerned to note that, while the Commission had been giving priority attention to the issue of human rights violations in the occupied Arab territories, including Palestine, since 1971, the situation had barely improved. The Oslo Accords had been signed six years previously. Currently, the peace process had reached deadlock as a consequence of the construction of Jewish settlements on the West Bank and the issue of the Palestinians' security obligations towards Israel. The Palestinians at present enjoyed total or partial autonomy in 27 per cent of the West Bank, but Israel continued to exert control over almost all the territory. The process was lagging considerably behind the original timetable, particularly in the matter of Israeli withdrawal from the West Bank, and trust between the two sides had been damaged. The peace process could move ahead only if the two sides accepted the Wye River initiatives and resumed negotiations.

28. She feared that a deterioration of the situation might again lead to an escalation of violence. It was important that the Commission should strongly request the Israeli Government to put an immediate end to human rights violations in the occupied territories. The United Nations should continue to demand the unconditional withdrawal of all Israeli forces from all occupied Palestinian and Arab territories, in accordance with Security Council resolutions 242 (1967), 338 (1973) and 425 (1978).

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

29. Mrs. OGATA (United Nations High Commissioner for Refugees) said that for several years there had been an intensification of human rights violations in the countries of origin of refugees and a noticeable decline in the level of protection and assistance to refugees and asylum-seekers in countries of asylum.

30. One had a sense of powerlessness in view of the extent of human rights violations in situations of conflict, and especially internal conflict, which pitched communities against each other and caused massive displacement of civilians.

31. In the Yugoslav province of Kosovo, the hopes raised by the first agreement between President Milosevic and Mr. Holbrooke and by the Rambouillet talks had been dashed. In the village of Racak 45 civilians had been summarily executed, shot at close range. She had twice asked President Milosevic to put a stop to the violence against civilians. She had also pointed out that Serbs living in the province were, to a more limited

extent, victims of violence by the Kosovo Liberation Army. Currently more than 260,000 persons were displaced within Kosovo. Under the imminent threat of NATO intervention, UNHCR had been forced to withdraw its staff. It hoped to be able to return as soon as possible and help the hundreds of thousands of displaced persons return home.

32. In Sierra Leone, rebels fighting a democratically-elected Government were summarily executing women and children, raping and mutilating women and young girls, and taking children from their parents for use as combatants.

33. In Indonesia, ethnic and religious violence was causing a risk of major population displacements.

34. Those tragic events illustrated the close relationship between human rights violations and increases in refugee flows. The issues debated by the Commission were concrete problems requiring urgent, concrete solutions. She wished to repeat once more that the work of the Commission on Human Rights was of great support to the work of her own Office. The success of UNHCR's humanitarian efforts depended heavily on the realization of internationally-agreed rights, especially those upheld by the International Covenant on Economic, Social and Cultural Rights.

35. In Kosovo, for instance, the population displacements resulted from massive violations of human rights and humanitarian law. Displaced persons who had been unable to cross the border needed protection and assistance as acutely as those who had crossed. Hence the requirement for concrete application of the Guiding Principles on Internal Displacement.

36. The purpose of humanitarian assistance was first of all to ensure the physical safety of displaced persons, but it must also allow them to live in dignity, enjoying the rights to food, clothing, medical care, education and housing.

37. In Bosnia and Herzegovina, the implementation of the property provisions in the Dayton Peace Agreement remained problematic in cases where returnees wished to return to their homes. UNHCR recognized the value of a legal framework with equitable mechanisms to resolve difficult issues such as restitution or compensation.

38. In the example of Georgia, it had been found that restitution of real property and compensation for the loss of personal property were essential for the sustainable return of ethnic Ossetians. In practical terms, UNHCR was involved in projects to rebuild houses and to promote a legislative framework for claims to be resolved.

39. Her Office was particularly concerned about the issue of family reunification. It was essential for families to be able to stay together. While all States recognized the family as the natural and fundamental unit of society, asylum and immigration policies often did not allow for separated refugee families to be reunited. However, families that were reunited had greater resilience to overcome the hardships of displacement and exile and were less of a burden on the host society. A further priority for displaced families was to find a place of safety, away from conflict and persecution.

All too often, humanitarian assistance efforts had failed because of a lack of security. UNHCR attached great importance to the legal regime of asylum precisely because it placed clear responsibilities on States to protect refugees. Regrettably, the "escape route" of asylum was increasingly blocked.

40. Violations of family rights had serious consequences for children. Displaced children were deprived of the support of their families, schools and friends, and were particularly vulnerable to human rights abuses. The 1996 Graca Machel study had pointed out that children were no longer innocent bystanders in armed conflicts, but the victims of genocide, forced military recruitment, gender-related violence, torture and exploitation on a massive scale.

41. UNHCR policies and programmes were linked directly to the rights protected by the Convention on the Rights of the Child. In Liberia, for instance, emphasis had been placed on the right of children to education, and hence on the rebuilding of an education system shattered by seven years of conflict. That had two goals: education was a way to break the cycle of violence being passed down to future generations, and it encouraged families to return to Liberia.

42. She expressed her deep concern about violence against refugee women and girls. In 1989, UNHCR had launched a project to combat sexual violence for refugee communities in sub-Saharan Africa. A similar approach had been taken in the programmes for women returnees in Rwanda and Bosnia. By contrast, in Afghanistan, the Taliban's denial of women's basic rights to work and education was impeding the return and rehabilitation of more than 2 million refugees currently in Pakistan and Iran. That was the sort of issue on which the Commission could take a strong stand.

43. The activities of UNHCR were long-term and took place in countries often grappling with enormous political and economic problems. However, the limited resources should not be a reason for not making the effort; rather, it should serve as the rationale for joining forces in a common effort. Nonetheless, the conflicts in Bosnia and the Great Lakes region of Africa had shown that humanitarian action could not be a substitute for timely and firm action at the political level. Kosovo, for example, was a political problem with devastating humanitarian consequences, for which there was only a political solution.

44. Political support for humanitarian work was crucial, as was safe access to displaced persons. The Commission and the Office of the High Commissioner for Human Rights had a vital role to play in guaranteeing the effective exercise of the rights upheld by the conventions. Equally, they could publicly disclose and censure violators of human rights and help mobilize the political support needed for humanitarian efforts by UNHCR.

STATEMENT BY THE UNDER-SECRETARY FOR FOREIGN AFFAIRS OF MEXICO

45. Ms. MORENO DEL CUETO (Mexico) said that, in the context of globalization and global change, it was important for the Commission to strengthen and improve its methods of action. In Mexico, the Government was trying to implement the right to development, to reinforce democracy and to strengthen

human rights. The previous year had seen intense legislative activity and the modernization and updating of the internal legislative order on human rights. A federal law and a local law on the role of the Ombudsman had been promulgated. Following a suggestion by the National Commission on Human Rights, the possibility of classifying enforced or involuntary disappearance as an offence was under examination. In the previous six months, her Government had promulgated the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights, known as the "San Salvador Protocol", had deposited its instrument of ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, had accepted the binding jurisdiction of the Inter-American Court of Human Rights, and had deposited its instrument of ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. In addition, an effort had been made to strengthen the power of the judiciary and guarantee its true independence. The Government was also in constant dialogue with NGOs, whose number had grown from 5,000 in 1995 to 8,000 in 1998. It was pursuing a policy of open-mindedness towards foreign human rights activists. In the previous four years, 6,000 such activists had visited Chiapas, and only a small number, who had broken national law, had been asked to leave the country. Mexico had accepted the Declaration on Human Rights Defenders. In the National Development Plan for 1994-2000, the authorities had expressed their wish to consolidate the rule of law. In 1998, they had produced the National Programme for Public Security, intended to combat and eradicate impunity and crime. A national programme for the promotion and strengthening of human rights had also been established recently.

46. Mexico attached great importance to the realization of economic, social and cultural rights. It was to be noted in that connection that, despite the poor results in the global economy, the Mexican economy had acquitted itself rather well in 1998. Social spending had represented 9.1 per cent of GDP.

47. The Government was constantly concerned for the situation of indigenous peoples and had submitted to Parliament various proposals for legislative reform envisaging broader recognition of the rights of those peoples and their traditions and way of life. Regarding Chiapas, the authorities' strategy was based on three pillars: a legal pillar in the form of the restoration of the rule of law; a social pillar, treating the structural issues which underlay the conflict; and a political pillar, founded on dialogue and negotiation with the Zapatista National Liberation Army (EZLN). The results of the measures taken to improve the situation in Chiapas in the areas of education, health, agriculture and the fight against poverty were already becoming evident, though much remained to be done. The authorities attached great significance to the International Decade of the World's Indigenous People, supported unreservedly the creation of a permanent authority for indigenous peoples within the United Nations system, and hoped that a declaration on the rights of indigenous peoples would be adopted by the United Nations.

48. Almost every country in the world was now affected by the phenomenon of migration. It was estimated that approximately 130 million of the world's population were migrants, including 30 million unauthorized migrants. The Intergovernmental Group of Experts set up by the Commission recommended that a

mechanism should be set up to study human rights issues relating to migrants. On the basis of that Group's report, her delegation intended to submit a draft resolution which, it hoped, would be supported by all delegations.

49. Her Government was continuing its policy of cooperation with the Commission on Human Rights and its mechanisms. President Zedillo had already invited representatives of various regional and global human rights bodies to visit Mexico. The previous year, he had invited the High Commissioner, Ms. Mary Robinson, and the Special Rapporteur on the question of extrajudicial, summary or arbitrary executions. The Mexican Government intended to continue its work towards strengthening the rule of law and realizing economic, social and cultural rights.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF GABON

50. Mr. ZENG EBOME (Gabon) emphasized the importance attached by his country to freedom, a freedom whose function was to eliminate antagonism by safeguarding each person's sphere of action. Unfortunately, setting up a responsible society was more difficult than dominating people, and that was why human rights had been, and were still, flouted throughout the world. The northern hemisphere had had in the past, and had still, certain barbaric instincts, as did the southern; the forms did not differ greatly from one to the other. For that reason, all the countries of the world needed to embark resolutely on the road to a modernity in which human life would be protected and human dignity respected.

51. That was the road that Gabon had chosen. Following a spell in which a single party had held power, the country had moved towards political pluralism and, consequently, towards democracy. The Constitution of Gabon asserted the Gabonese people's commitment to human rights and to fundamental freedoms, the foundations of a State genuinely subject to the rule of law. The new Gabonese institutions, including the recently created National Commission on Human Rights, were all oriented towards democracy and towards ensuring respect for those rights and freedoms.

52. At the international level, Gabon had ratified the major covenants and conventions on human rights. That was an area in which Gabon was making steady progress, thanks notably to the perseverance and determination of its politicians, and, more particularly, to the clear-sightedness of the President of the Republic, His Excellency Mr. Omar Bongo.

53. In order to strengthen that process, his Government had recently concluded with the Office of the United Nations High Commissioner for Human Rights an agreement whose two major aims were the harmonization of national law with international norms and greater attention to legislation and regulations by the judicial and administrative authorities. In pursuance of the second aim, Gabonese public servants were to be given training directly relevant to the protection and promotion of human rights. In that connection, mass education was also expected to play a significant role. Finally, the desire for progress in that field had led to the establishment, on 25 January 1999, of a Ministry for Human Rights which he himself headed. His

Government recognized that it was the political authorities, above all, who were responsible for guaranteeing the effective enjoyment of human rights and fundamental freedoms.

54. It was important, however, to be realistic, and to acknowledge that citizens could genuinely exercise their human rights only after attaining a certain minimum standard of living and education. Hence a restructuring of economic relations between North and South, particularly through cancellation of the debt which was strangling the developing countries and especially those of Africa, would permit the emergence of free and responsible citizens. An act of solidarity by the affluent countries was thus a moral and economic necessity. It was time to move together towards realizing the human rights objectives set by the international community. The latter must bring its full weight to bear to put an end to all the armed conflicts which were lining the pockets of arms dealers in the North and stunting Africa's progress and development.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF IRELAND

55. Ms. O'DONNELL (Ireland), briefly summarizing recent events in Northern Ireland, observed that it was the denial of the civil and political rights of a large proportion of the local population which had sparked off the troubles in that region 30 years previously. The resulting paramilitary violence had for many years crowded out that community's legitimate grievances. The new peaceful context had enabled the signing, in 1998, of the Belfast Agreement, which finally emphasized the equality of all citizens in all fields - political, social and cultural. With the founding of new institutions for the protection of basic rights, the establishment of equality and the elimination of all discrimination, a new human rights landscape was finally emerging in the region.

56. It was with the direct and recent experience of conflict resolution on its own island that her delegation would associate itself with the statement to be delivered by the Presidency of the European Union under agenda item 9 concerning violations of human rights and fundamental freedoms throughout the world. No part of the globe was free from human rights abuses, but there were scales of abuse. It was essential to engage in real dialogue on those issues, attempting above all to find solutions and to make good use of the mechanisms made available to countries by the United Nations.

57. The preparations for the World Conference on Racism, part of the Commission's agenda, should be an occasion not for re-visiting the past, but for exploring modern-day racism and addressing issues such as globalization, new patterns of migration and the spread of Internet use.

58. Regarding the Convention on the Rights of the Child, she said that the Irish experience was a positive one, providing coherent standards and principles for child-care policy. Away from treaty texts, it should be remembered, however, that millions of children throughout the world went hungry, died of disease because of lack of medicines or drinking water, or were the victims of armed conflicts or sexual exploitation. Ending the unconscionable sexual trafficking in children required an urgent effort by the global community as it entered a new millennium.

59. Development cooperation efforts were the greatest and most practical vindication of human rights. Ireland had reaffirmed the importance it attached to the right to development through steady expansion of its overseas development aid programme in recent years.

60. During the current session, the Commission would be examining ways to make the Declaration on Human Rights Defenders, adopted by the United Nations General Assembly on 10 December 1998, into a fully effective instrument. There was no time to be lost. Within days of the approval of the draft Declaration by the Commission, a human rights defender had been killed in Colombia. Just one week before, another courageous human rights activist, Ms. Rosemary Nelson, had been murdered in Northern Ireland. In his report on the independence of judges and lawyers, Mr. Param Kumaraswamy, the Special Rapporteur, had drawn attention precisely to the harassment and intimidation of lawyers in Northern Ireland. The murder of Rosemary Nelson was a graphic testament to that problem. The Special Rapporteur had also dealt comprehensively with the murder 10 years previously of Patrick Finucane, another human rights lawyer defender whose family she (Ms. O'Donnell) had met in Dublin. She had received information alleging collusion by the security forces in that murder. That raised issues of fundamental concern to the Commission, namely the protection of human rights and the rule of law. It was absolutely essential that the murders of Mr. Finucane and Ms. Nelson should be the subjects of fully independent inquiries.

61. In conclusion, she expressed her pleasure at the fact that the international community had at its disposal a full legal framework to guide it as it entered the new century. She urged those participating in the Commission on Human Rights and all other regional and international forums to become ambassadors, not merely of countries but of the "Republic of Conscience", to quote Ireland's Nobel Laureate, Seamus Heaney.

STATEMENT BY THE VICE-PRESIDENT OF THE COUNCIL OF STATE AND SECRETARY OF THE COUNCIL OF MINISTERS OF CUBA

62. Mr. LAGE DAVILA (Cuba) observed that the extremely rigid time limits imposed by the Chairman on speakers addressing the Commission were of benefit only to the super-Power interested in preventing the truth from being heard in that forum. That super-Power had assumed, apparently for life, the role of prosecutor in the public trial of Cuba and supreme judge of human rights at the global level. How could the United States be allowed to judge the behaviour of all the countries of the world, itself excepted, when in fact it represented a far from outstanding example? In the richest and most powerful nation in history there were almost a million homeless and millions without medical insurance or excluded from social programmes; most of the 45 million poor people in the United States were Hispanic, black or children. The United States was also the world's largest consumer of drugs, had the world's largest prison population, and frequently carried out the death penalty, particularly against Blacks, Hispanics and third-world immigrants.

63. More than 100 political prisoners, including Puerto Ricans struggling for their country's independence, were imprisoned in high-security facilities in the United States, while the Government tolerated neo-fascist and xenophobic groups which incited discrimination and perpetrated large-scale

violence. And besides having created the most lethal weapons of extermination, the United States made the least contribution of any industrialized country to development and owed the most to the United Nations.

64. The country which had invaded Santo Domingo, Grenada, Panama and Somalia, participated in a dirty war in Central America and supported the bloodiest Latin American dictatorships now claimed the right to judge the world. It was that same country which had decided to wage war for its own ends and was preparing, through NATO, to launch brutal attacks on Serbia, a country whose people had heroically fought the Nazi hordes in the Second World War. Who would defend the rights of the innocent who would perish under the missiles and bombs dropped on that small European country? If the world were to convene as a court, the United States would be constantly in the dock.

65. Since 1992, the United States had been stepping up intimidatory measures against all those wishing to enter into commercial or other relations with Cuba. At the same time, with the single aim of undermining the strong and constantly growing movement of solidarity with Cuba, there was talk of a so-called relaxation of its policy on the latter. Nothing could be further from reality. The United States was pursuing its criminal, ridiculous and futile policy aimed at overthrowing the Cuban regime. It was often asked why the United States did not put a stop to that stubborn policy and turn the page on that sordid episode. The answer was to be found in the corrupt American political system and in obscure political interests which had the upper hand over those most basic of moral principles which a country wishing to set itself up as a model should never abandon.

66. It was also worth asking why the blockade which Cuba had suffered for 40 years and which constituted veritable genocide had not been examined by the Commission on Human Rights. One sometimes had the impression that United Nations censure was directed primarily at underdeveloped countries.

67. However, Cuba had a weapon which had earned it respect, even from its enemies, and that was truth. It was because of truth that 19 States members of the Commission had rejected the resolution targeted at Cuba. However, those enemies were not ready to be defeated, and they had found a traitor prepared to accuse Cuba of numerous vile deeds which many representatives in the Commission would find it hard to believe. The world knew that, despite the problems and the poverty, Cuba had managed to provide its people with the most basic social services, and that Cuba had no racial discrimination, torture, forced disappearance, death squads or summary executions.

68. Moreover, Cuba's commitment to human rights was evident outside Cuban territory also. Cuban doctors were carrying out missions in the furthest reaches of the world, and more than 14,000 child victims of the Chernobyl disaster were being cared for in Cuba. Likewise, many young Namibian survivors of the Kassinga massacre had found a home and an education in Cuba. While other countries had traded with the racist regime in South Africa, Cubans had generously shed their blood for South African independence.

69. In conclusion, he asked whether those who claimed the right to judge Cuba could say as much for themselves.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)
(E/CN.4/1999/2 and 109; E/CN.4/1998/CRP.4)

70. Mr. HOYNE (Germany), speaking on behalf of the European Union, said that the principle of responsibility which must guide the work of the fifty-fifth session required the process of revision of the Commission's mechanisms, which played a crucial role in the protection and promotion of human rights, to be set in motion without further delay. In that connection, the proposals to postpone to the end of the session the substantive discussion on the report (E/CN.4/1999/104) on that issue by the Bureau of the fifty-fourth session were not acceptable. However, the European Union did not want a quick fix, but rather an incremental process involving all the delegations. Cooperation was the working method preferred in the Commission, even on difficult issues which could give rise to disagreement on substantive points. Setting the process in motion simply required delegations to demonstrate a constructive attitude, making it possible to achieve results acceptable to the largest possible number. Making all decisions subject to consensus, as had been proposed, would mean giving one or two delegations a de facto right of veto and would not reflect a responsible attitude towards human rights. The European Union therefore suggested that informal consultations should be organized as soon as possible on those recommendations which could be adopted by general consent during the fifty-fifth session, and that the framework for further work on other recommendations be decided by the end of the session. The results of that informal dialogue would be subject to decisions taken under agenda item 20. The European Union was aware that the success of that process depended on trust among delegations, and would do its best to strengthen that trust.

71. Mr. BENITEZ (Argentina) noted that the report in question was the fruit of totally transparent and open dialogue among all the members of the Commission, other interested States and NGOs. It was now a question of gaining the maximum benefit from the progress made by putting into practice the recommendations made by the Bureau of the fifty-fourth session. His delegation acknowledged the systematic character of the reforms to be made, which required an overall view of the process at each stage. However, the existence of interdependent links among the mechanisms of the Commission did not obviate the separate examination of the various chapters of the report and finding that not all of the Bureau's conclusions attracted the same general agreement. Hence, the Commission should at the current session examine the recommendations on which the Bureau had considered agreement possible and, in parallel, move towards setting up an intersessional mechanism to pursue the consideration of less consensual questions. It would be disappointing if the Commission itself were not able to enjoy the first fruits of the reform process. For that reason his Delegation invited the Chairman to set up an informal process of consultations which would allow the Commission to adopt the first decisions on the review of its mechanisms. Like numerous other delegations, his own delegation hoped that many proposals would meet with consensus, in accordance with the Commission's tradition. Nevertheless, it was important to remember that consensus was an ideal to be striven for, not a rule for the functioning of the Commission.

72. Mr. SKOGMO (Norway), speaking on behalf of the Western Human Rights Group, noted that there seemed to be broad agreement on the need to review the Commission's mechanisms in order to improve effectiveness. The responsibility emphasized by the Chairman in her opening speech required that the reform momentum generated by the Bureau report should not be lost. To that end, it would be appropriate, before reaching a decision on the establishment of an intersessional working group, to examine how the question should be dealt with during the current session. It would be unfortunate if the Commission could not itself find the time to debate proposals which could improve its efficiency. It was true, delegations had a busy programme, but they could put the presence of their experts to good use. For that reason, the Group urged the Chairman to initiate as soon as possible a process of consultations on both the procedural questions and the substantive questions raised by the report.

73. Mr. LABBE (Chile) said that he, too, was in favour of immediately beginning informal, open and transparent consultations so that the substance of the proposals by the Bureau could be discussed. In addition, he suggested that a group of Friends of the Chairman should be set up for the sole purpose of considering procedural questions. Certain of the Bureau's recommendations were easy to adopt, and should be adopted at the current session in order to make the most of the momentum generated; others were more complicated and required more detailed debate, possibly in an intersessional working group. In any event, it was important to act without delay, for a review of the Commission's mechanisms was urgently needed.

74. Mr. GÉRALD-VIDÉRIC (Canada), speaking also on behalf of Australia and New Zealand, expressed support for the Norwegian statement made on behalf of the Western Group. It was essential that at the current session the Commission should achieve concrete results on the reform of its mechanisms. It would be very disappointing if the only measure taken towards streamlining the work of the mechanisms was simply the creation of another one. It was clear that delegations had already focused considerable attention on the issues raised in the report and were now in a position to take decisions. The questions involved were not technically complex, but did require a degree of political commitment. An open and constructive debate should begin without delay, and after that the more difficult issues would become clearer. The setting-up of an intersessional working group should not be a starting-point, but rather an option to be considered later if necessary. Referring those issues to some intersessional mechanism at the present stage would do nothing to strengthen the mechanisms of the Commission.

75. Mr. NENE (South Africa) considered that it would be pre-emptive to establish an intersessional mechanism prior to any debate in the Commission, since that would reduce the openness and transparency of deliberations and might marginalize NGOs and those countries, including some African countries, which had no permanent mission in Geneva. His delegation supported the proposal to set up a group of Friends of the Chairman.

76. Mr. BAUMANIS (Latvia), speaking also on behalf of Armenia, Bulgaria, the Czech Republic, Georgia, Lithuania, Poland, Romania, Slovakia and Slovenia, proposed that, on the basis of the opinions already expressed on the subject, an open forum should be established for the discussion of the report of the

Bureau at the current session. Given the interrelated nature of the reform proposals, the approach could be chapter by chapter. The results of that informal dialogue would be considered under agenda item 20. The consideration of those issues by an intersessional working group, besides reducing participation in practice, could lead to delays in the necessary reforms and damage the credibility of the Commission.

77. Ms. GLOVER (United Kingdom) supported the statements of the German and Norwegian representatives; the delicate nature of the question should not be an excuse for inaction. Dialogue in the Commission was not only possible but necessary. Numerous delegations had studied the report in detail and were prepared to consider ways of improving the Commission's mechanisms, without allowing that discussion to prejudice the other items on the agenda. The establishment of a transparent dialogue open to everyone would be a step in the right direction.

78. Ms. RUBIN (United States of America) said that the Bureau's report, while far from perfect, should be considered at the current session. That report, the result of broad consultations, had been available for several months, so that delegations had had time to study it and make detailed comments. If they worked together in an open and transparent manner, they would undoubtedly be able to reach agreement on several of the recommendations, though amendments and revisions might be necessary. The proposals to refer consideration of the report to an intersessional working group suggested that the Commission did not have confidence in its own ability to take speedy decisions on the important matters before it. It would be ironic if efforts to streamline the Commission's work and reduce the number of mechanisms led to the creation of another mechanism.

The meeting rose at 1 p.m.